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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/027,867 02/23/98 CARROLL

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QM32/0605

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EXAMINER

JIM ZEGER
SUITE 108
801 NORTH PITT STREET
ALEXANDRIA VA 22314

PATTERSON, M

ART UNIT

PAPER NUMBER

3728

DATE MAILED:

06/05/01

21

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/027,867

Applicant(s)
Carroll

Examiner
Marie Patterson

Art Unit
3728



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Board Reman of 4/16/01.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5, 6, 9, 10, 15, 16, and 21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 9, 10, 15, 16, and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

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1. In view of the questions and remand given by the Board of Appeals on 4/16/01 the following rejections are now made.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 15, 16, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bouyer (French Patent 2679421).

Bouyer shows a cleat with a mounting member (2) and a plurality of traction teeth (3) which project outwardly (i.e. out from the base), have an outer traction surface (all surfaces 6, 6A, and 6B), and the outer traction surface (the surfaces 6A and 6B) having an outward angulation as claimed.

4. Claims 1, 15, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson (3656245).

Wilson shows a cleat with a mounting member (24) and a plurality of traction teeth (15 and 18) which project outwardly (out from the base 14), have an outer traction surface (the entire bottom surfaces of the teeth), and an outer traction surface (shown at 18) which has an outward angulation as claimed.

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bouyer or Wilson in view of either Kelly or Jordan.

Wilson or Bouyer shows a cleat substantially as claimed except for an anti-debris ring. Kelly or Jordan '114 teaches providing an anti-debris ring (24 or 7). It would have been obvious to provide an anti-debris ring as taught by either Kelly or Jordan in the cleat of Wilson or Bouyer to prevent debris from getting between the cleat body and the shoe sole.

7. Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 2, 5 and 9 above, and further in view of either Johnson or Kataoka '913.

Wilson or Bouyer as modified above shows a cleat substantially as claimed except for the exact shape of the peripheral teeth. Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface as taught by either Johnson or Kataoka in the cleat of Wilson or Bouyer as modified above to prevent damage to the turf and to make the teeth safer to participants.

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8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson or Bouyer in view of either Johnson or Kataoka '913.

Wilson or Bouyer shows a cleat substantially as claimed except for the exact shape of the peripheral teeth. Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface as taught by either Johnson or Kataoka in the cleat of Wilson or Bouyer to prevent damage to the turf and to make the teeth safer to participants.

9. Claims 1, 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Softspikes (A Unique Holiday Offer article) or Bouyer in view of either Howard (2095095) or Matulla (German patent 3811513).

Softspikes shows a cleat with a threaded stud and a plurality of peripheral teeth substantially as claimed except for the perimeter traction teeth being angled outwardly. Bouyer shows a cleat with a main body (1), a plurality of perimeter traction teeth (3), a threaded stud (2), and a central abrasion-resistant/load bearing portion (end of 2 or 4) substantially as claimed except for the perimeter traction teeth being angled outwardly. Howard or Matulla teaches outwardly angling perimeter traction teeth to increase traction and to ensure against lateral slipping. It would have been obvious to outwardly angle the plurality of traction teeth as taught by Howard or Matulla in the cleat of either Softspikes or Bouyer to increase traction and to prevent lateral slipping.

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10. Claims 2, 5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1, 15, and 21 above, and further in view of Kelly or Jordan.

Softspikes or Bouyer as modified above shows a cleat substantially as claimed except for an anti-debris ring. Kelly or Jordan '114 teaches providing an anti-debris ring (24 or 7). It would have been obvious to provide an anti-debris ring as taught by either Kelly or Jordan in the cleat of Softspikes or Bouyer as modified above to prevent debris from getting between the cleat body and the shoe sole.

11. Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 2, 5 and 9 above, and further in view of either Johnson or Kataoka '913.

Softspikes or Bouyer as modified above shows a cleat substantially as claimed except for the exact shape of the peripheral teeth. Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface as taught by either Johnson or Kataoka in the cleat of Softspikes or Bouyer as modified above to prevent damage to the turf and to make the teeth safer to participants.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1, 15, and 21 above, and further in view of either Johnson or Kataoka '913.

Softspikes or Bouyer as modified above shows a cleat substantially as claimed except for the exact shape of the peripheral teeth. Johnson or Kataoka teaches shaping projection teeth with one

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cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface as taught by either Johnson or Kataoka in the cleat of Softspikes or Bouyer as modified above to prevent damage to the turf and to make the teeth safer to participants.

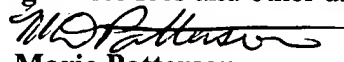
13. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 **Customer Service Center** number is **(703)306-5648**.

For applicant's convenience, the Group Technological Center FAX number is (703) 305-3580. Please identify Examiner ____ of Art Unit ____ at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Marie Patterson whose telephone number is (703) 308-0069.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Valerie Douglas at (703)308-1337.

Check out our web-site at "www.uspto.gov" for fees and other useful information.


Marie Patterson
Primary Examiner
Art Unit 3728

MDP
May 31, 2001